UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,911	12/12/2003	A. Wade Cohn	804132-US-NP(1)	2291

47394   7590   02/23/2010
HITT GAINES, PC
ALCATEL-LUCENT
PO BOX 832570
RICHARDSON, TX 75083

EXAMINER
AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
02/23/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@hittgaines.com

	Application No.	Applicant(s)
Office Action Summary	10/734,911	COHN ET AL.
	Examiner	Art Unit	
	RASHA S. AL AUBAIDI	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 December 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-8,11-14,18-23,25-28,31-34,37-40 and 43-52</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-8, 11-14, 18-23, 25-28, 31-34, 37-40 and 43-52</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20100216

DETAILED ACTION

Response to Amendment

1.   This in response to amendment filed 12/03/2009. Claims 43-52 have been

added. Claims 41-42 have been canceled. Claims 1, 19, 25, 31 and 37 have been

amended. Claims 1-8, 11-14, 18-23, 25-28, 31-34, 37-40 and 43-52 are still pending in

this application.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

        This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 1, 2, 6-8, 11, 14, 19, 20, 22-23, 25-26, 28, 34, 37-38, 40 and 43-52 are
rejected under 35 U.S.C. 103(a) as being unpatentable over Bateman et al. (US PAT #
5,884,032) in view of Burg et al. (US PAT # 6,456,699) and further in view of Price (US
PAT # 5,148,469) and further in view of Johnstone (US PAT # 4,390,953).

As to **claim 1**, Bateman discloses a method comprising:
providing an automated option via a first communication channel of a first type during
first communication with a server via the first communication channel (col. 5 lines 12-22,
col. 6 lines 5-19, wherein "automated option" reads on WWW browsers, since a browser
has links incorporated and "server" reads on fig. 1 Data net 44 and "first communication"
reads on internet access line **6**);determining that a second communication is related to
the first communication (col. 6 lines 15-19, col. 6, col. 7 lines 62-67, col. 8 lines 1-9,
wherein "determining" reads on setting up the appropriate time of the call based on the
form completed through the browser and   "second communication" reads on fig. 1
telephone **8** and "related to the first communication" reads on solving the conflicting
problem initiated by the browser where the live help option was selected and also on the
teachings that the channels might be quickly changed from one medium to the other);
and via the second communication channel, transmitting a computer generated voice
message to a suggests selecting the automated option (col. 7 lines 62-67, wherein
"providing an automated suggestion" reads on IVR server being capable of providing
help on a variety of topics). The Examiner believes that "receiving a second
communication with the server, via second communication channel, the second

communication comprising a speech or DTMF signal" is obvious if not inherent in the
Batman system.

Bateman does not specifically teach" the automated option comprises a link to be
displayed on a web page".

However, Burg teaches in a "Click-to-Dial" system a web page may contain a link
to automatically initiate a telephone connection between a personal computer user
accessing the web page and another party (see col. 9, lines 44-55).

Thus, it would have been obvious to one of ordinary skill in the art at the time the
invention was made to incorporate the feature of having an automated option that
comprises a link to dial, as taught by Burg, into the Bateman system in order to provide
speed and convenience when initiating and establishing communications.

Even though Batman teaches that the IVR being capable of providing help on
variety of topics (col. 7, lines 62-67), however, Bateman does not specifically teach that
the computer generated message "includes an instruction to select the link".

The Examiner now introduces Price which teaches that a VRU (element 18)
provides a voice instruction to the caller (see col. 5, lines 13-14 and col. 2, lines 1-2).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of having VRU or IVR that instructs the caller, as taught by Prices, into the combination of Bateman and Burg, in order to provide speed and convenience to the caller/user. Having the VRU or IVR instructing the caller will provide easy guidance to caller/user.

Neither Bateman, Burg, and/or Price alone or in combination specifically teach coordinating the first communication channel with the second communication channel"

Thus, the Examiner now introducing Johnstone that teaches a diagnostic communication computer system is programmed to monitor the operation of a remotely situated computer numerically controlled machine tool and to diagnose any machine tool abnormalities developed during machine tool operation. Johnstone teaches automatically initiate *a communications link across a communications channel such as a telephone line* (this can read on the first communication channel) between the diagnostic computer and the remotely situated computer numerically controlled machine tool in response to an operator initiated test command entered to the computer controlled machine tool or in response to a command generated by the machine tool computer itself. Following establishment of the communication link, the diagnostic computer interrogates the remotely situated computer controlled machine tool to ascertain its identity. Once the diagnostic computer is provided with information from the remotely situated computer controlled machine tool indicative of its identity,

the diagnostic computer transmits control instructions to the computer controlled

machine tool (this can read on the second communication channel that is coordinated

with the first communication channel) and, thereafter, receives information from the

machine tool indicative of machine tool operating characteristics (see col. 2, lines 42-

58 and abstract of the invention).

Thus, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the feature of having a first communication channel

coordinated with a second communication channel to test and repair a problematic

operation, as taught by Johnstone, into the combination of Bateman, Burg, and Price in

order to provide speed of troubleshooting and repairing a problematic issue and

enhance the system's efficiency of providing the correct and most efficient diagnostic to

a specific problem.

As to **claim 2**, Bateman discloses obtaining a first identifier for first data related

to the first communication (Col.6 lines 16-19, wherein "obtaining a first identifier" reads

on the user filling out a form identifying information such as their phone number);

obtaining a second identifier for second data related to the second communication (col.

7 lines 62-67, it is noted that the IVR can provide help on a variety of topics, also an IVR

obtains information from the user and communicates information to the user) ; if the first

identifier and the second identifier are the same, using at least one of the first data and

the second data to perform an action during at least one of the first communication and

the second communication (col. 6 lines 14-25, it is disclosed that the identifier from the

first communication and second identifier corresponds to each other by stating that the

form filled by the customer through the PC **4** allows the server to call the user's

telephone **8**).

As to **claim 6**, Bateman discloses providing third data obtained using at least

one of the first identifier and the second identifier (col. 7 lines 62-67 and col. 7 lines 1-9,

wherein the IVR can help the user in a variety of topics. It is noted that an IVR system

will request information as well as provide commands or menus for the user to follow.

"Provided third data" reads on the commands or menus that the IVR will generate as a

result of the identifier).

As to **claim 7**, Bateman discloses that the action comprises providing a second

automated option during at least one of the first communication and the second

communication (col. 7 lines 62-27, it is noted that "automated option" reads on IVR call

back system and "second communication" reads communication using the phone **8**

through the PSTN **9** network).

As to **claim 8**, Bateman discloses that the action comprises providing a second

automated suggestion to select a second automated option provided during at least one

of the first communication and the second communication (col. 7 lines 62-27 discloses

that an IVR is used to provide help on a variety of topics, it is inherent that the IVR

system will provide various suggestions during the process in order to gather and correlate the correct data).

As to **claim 11**, Bateman teaches that the first data are unavailable via the second communication channel, and the second data are unavailable via the first communication channel (col. 6 lines 6-13 and col. 7 lines 62-66 discloses that the information from the pc 4 is communicating through web server **28**, and the phone **8** is communicating through the PSTN **9**. It is inherent that each communication artifact communicates through a separate path; therefore the data will not travel on separate communication channels).

As to **claim 14,** Bateman discloses that a first one of the first and second communication channels is a telephone channel (fig. 1 phone **8** and PSTN **9**); and a second one of the first and second communication channels is a web channel (fig. 1 PC **4** and element **28**).

As to **claims 19, 20 and 22-23**, Bateman anticipates the system for the reasons given in claims 1, 2, 6-7 respectively. All means for function elements of claims 19-24 are carried by interaction between software/hardware as disclosed by Bateman in fig. 1.

As to **claims 25, 26 and 28**, Bateman discloses a system corresponding to the method steps of claims 1, 2 and 6 respectively (see rejection of claims 1, 2 and 6 respectively).

As to **claims 31, 32 and 34**, Bateman discloses a system carried by interaction between software/hardware, and therefore it would be inherent that a program stored (intended language) in a computer readable medium is stored in the software/hardware corresponding to the method steps of claims 1, 2 and 6 respectively (see rejection of claims 1, 2 and 6 respectively).

As to **claims 37, 38 and 40**, Bateman discloses a computer system carried out by software/ hardware and therefore it would be inherent that the system has a processor for executing instructions and a memory to store instructions. Additionally the system corresponds to the method steps of claims 1, 2 and 6 respectively (see rejection of claims 1, 2 and 6 respectively).

For claims 43-47, see the test command in Johnstone (abstract of the invention).

Claims 48-52 are rejected for the same reasons as discussed above with respect to claim1. Again, the use of DTMF is obvious if not inherent in the applied prior arts.

Claims 3, 4, 5, 12, 13, 18, 21, 27, 33 and 39 are rejected under 35 U.S.C.
103(a) as being unpatentable over Bateman in view of Burg et al. (US PAT #
6,456,699), in view of Price, in view of Johnstone and further in view of Klein (US PAT #
6,279,125)

As to **claim 3,** neither Bateman, Burg, Price nor Johnstone alone or in
combination disclose that at least one of the first data and the second data comprises a
diagnostic code, and the action comprises providing second information decoded from
the diagnostic code.

However, Klein discloses a system in the same field of endeavor that diagnosis
computer problems by providing diagnostic information from the computer to an agent
or automated diagnostic system (col.6 lines 5-12, abstract lines 1-3) through the phone
to diagnose the problem and find relevant troubleshooting information (col. 5 lines 37-
49, col. 6 lines 5-12), wherein "first data" reads on information sent through the phone
and "second information" reads on the data obtained from the audio input/output device
used to report diagnostic data (col. 6 lines 8-12).

Thus, it would have been obvious for someone of ordinary skill in the art at the
time of the invention was made to apply the teachings of Klein into the combination of
Bateman, Burg, Price and Johnstone for the purpose of providing the agent or
automated diagnostic system information about the status of the computer. Having the

agent or automated diagnostic system know the status of the computer would lead to

determining the cause of error faster and more efficiently.

As to **claim 4**, Klein discloses that the second information comprises at least one

of telemetry data, and diagnostic information (col. 6 lines 5-12, wherein the second

information is the audio from the computer going to the agent or automated diagnostic

system to provide the proper diagnosis).

As to **claim 5**, Klein discloses providing the second information for viewing (col. 6

lines 12-21, wherein the agent or automotive diagnostic system explains information to

the user and the user is able to view that information on the computer).

As to **claim 12,** Klein discloses that at least one of the first data and the second

data comprises diagnostic information for a problem with the problem entity (col. 6 lines

8-12).

As to **claim 13**, Klein discloses that at least one of the first data and the second

data comprises information for identifying the problem entity (col. 6 lines 8-12, wherein

the data sent comprises the problem entity).

As to **claim 18,** Bateman teaches gathering information through different

channels. Klein discloses gathering data related to a problem. Therefore, it would have

been obvious to someone of ordinary skill in the art to modify Bateman's method with

the teachings of Klein for the purpose of enhancing a customer's online experience

when using the applications disclosed in Bateman.

As to **claims 21, 27, 33, 39,** the combination of Bateman and Klein meets all the

limitations. Claims 21, 27, 33, 39 correspond to the method steps of claim 3 (see

rejection of claim 3).

Response to Arguments

3.   Applicant's arguments have been considered but are moot in view of the new

ground(s) of rejection.

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S. AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rasha S AL-Aubaidi/

Primary Examiner, Art Unit 2614